



**Agenda**  
Huntington Board of Zoning Appeals  
Tuesday, June 21, 2022 - 5:30pm

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1. Call to Order
2. Roll Call
3. Approval of the June 2, 2022 Minutes
4. Approval of the April Orders
  - BZA 22-V-18
  - BZA 22-V-19
  - BZA 22-V-20
5. New Petitions

**BZA 22-C-21**

A petition for a conditional use to allow for an off-site parking lot in a C-2 Highway Commercial District. The property is located at 1302 Washington Avenue.

**BZA 22-V-22**

A petition for a variance to the materials requirements for commercial parking lots to allow for a gravel parking lot in a C-2 Highway Commercial District. The property is located at 1302 Washington Avenue.

*Petitioner:* C & B Used Autos LLC. 1250 Washington Ave. Huntington, WV

*Property Owner:* William Sloane, 1302 Washington Ave. Huntington, WV

**BZA 22-A-23**

An appeal of the requirement, decision, or determination made by the administrative official charged with the enforcement of the Zoning Ordinance, regarding denial of a home occupation permit for firearm sales.

*Petitioner:* Matthew Shafer, 3004 3<sup>rd</sup> Ave. Huntington, WV

**BZA 22-V-24**

A petition for a variance to continue a non-conforming multi-family use in an R-2 Single Family District. The property is located at 2113 Madison Avenue.

*Petitioner/Property Owner:* Recovery Point of Huntington Inc. 1040 Adams Ave., Huntington, WV

6. Announcements/Discussion
7. Adjournment

**Minutes**  
**City of Huntington Board of Zoning Appeals**  
**June 2, 2022**

A meeting of the City of Huntington Board of Zoning Appeals was held on June 2, 2022 at 5:30 p.m. in the City Hall Council Chambers. *M. Dolin* called the meeting to order.

Members Present: C.W. Dolin, Lee Canup, Dan Earl

Members Absent: Howard Anderson, Jacqueline Proctor

Staff Present: Breanna Shell, Planning Director  
Janney Lockman, Planner  
Patricia Usher, Zoning Officer  
Ericka Hernandez, Assistant City Attorney

Hearing no corrections or objections, *M. Dolin* approved the April Minutes.

Hearing no corrections or objections, *M. Dolin* approved the Orders.

**BZA 22-V-18**

A petition for a variance from the height limitation in a C-1 Neighborhood Commercial Zone of three (3) stories to build a four (4) story building. The property is located at 1524 10<sup>th</sup> Avenue.

**BZA 22-V-19**

A petition to provide fewer parking spaces than required for multi-family housing. Per the requirements, 51 spaces would be required for the 32 unit development. 32 spaces are proposed.

*Petitioner:* Barnett Commons L.P. 330 W. Spring St., Ste. 430 Columbus, OH

*Property Owner:* City of Huntington Land Bank 800 5<sup>th</sup> Ave. Huntington, WV

Steve Golder, legal representation for the petitioners, presented the petition and requested that the petition for building height and parking be heard together to reduce redundancy in presenting. *Mr. Dolin* agreed with this request and clarified that the petitions would still be voted on separately.

Mr. Golder informed the Board that his clients have met with the Fairfield community to discuss the project and get input on what the community would like to see and reworked the development plans to increase parking by 25%, adding six additional spaces, making it a 1:1 ratio; repositioned the buildings to provide more indoor and outdoor communal spaces, including changes to outdoor seating; and commemorative plaques in honor of the legacy of the Barnett Center and Barnett family. He explained his clients hired a third party company to conduct a professional report regarding parking, which recommends the 1:1 ratio for the development; a copy of the report was passed around to the Board members and is included with the packet.

Mr. Golder addressed the issues that were presented to the Board regarding objections and concerns about how the project is being funded.

In regards to the height of the building, Mr. Golder spoke of the City's Comprehensive Plan and the Fairfield Neighborhood Plan as both call for a variety of low income housing. He explained the

ordinance already allows for a 45 foot high building and believe it would be in keeping with the intent of the ordinance to allow for the additional floor.

In regards to parking, Mr. Golder pointed out the current regulations for parking no longer account for senior housing as it once did. His clients utilized the input of the BZA members from their last hearing in January, the comments from the Fairfield community, the conclusions of the parking study, and several other factors to rework the site plan and came to a 1:1 parking ratio. He further suggested that the seniors living in the development will likely be of an age where driving is less likely and the accessibility of public transit at this location is readily available. M. Golder presented the Board with copies of the parking study and explained the findings; a copy of which is included with the packet

*Mr. Dolin* – Just to clarify, this proposal has not changed since the initial proposal? Meaning the same amount of units are being proposed?

M. Golder confirmed that the proposal presented this evening has the same number of units (32 units) as was initially presented in January.

Ms. Lockman presented the Staff Report and research into the changing attitude toward parking regulations that is happening in the planning community across the country (source article have been included in the file).

Cathy Burns, representing the Huntington Land Bank, spoke in favor of the petition, reiterating her comments from the initial hearing; detailing the history of the property, the length of time it was on the market, and the interactions between the city and Spire leading up to the submittal of plans.

Sandra Clements, former City Councilperson for the Fairfield community, spoke in favor of the petition, explaining that she attended the last meeting to hear about the project as no one in the community had heard of it. Ms. Clements told the Board the outreach that was done by the petitioners following the January meeting was outstanding. She appreciated that they took the time to hear what the community wanted and took into consideration the comments they all gave. She is in favor of the project as it will provide the community with more affordable housing and believes it will be well maintained and become a driver of future development in the community.

Cicero Fane(sp?), spoke in favor of the petition, telling the Board that he is very happy with what the petitioners have planned and appreciates the transparency they have brought with them, as well as the consideration to community input, their openness to listen and take into account the history and significance of the Barnett Family, and their acknowledgement of the family with a plaque on the outside and the inside of the building.

Bill St. Clair, representative of the Huntington Realty Corporation, spoke in opposition to the petition, stating there is nothing unusual about the property to justify a variance and believes that the petitioner can solve their own problem by reducing the number of units, which would also reduce the number of parking needed; asserting that the petitioner's request is intended for their own financial gain. Mr. St. Clair insisted that the Board is obligated to apply the code as it is written. He implied that the petitioners should purchase more land in order to make their project feasible and asserted they do not have standing to claim a hardship as they are in a purchase agreement for the property and do not already own the land.

Sam St. Clair, president of Huntington Realty Corporation and owner of adjacent property, spoke in opposition to the petition, passed around a flyer illustrating his objections to the petitioners. He questioned who would bear the burden of overflow parking and how emergency vehicles and large garbage trucks could move through the narrow alleyway. He believes that the height of the structure will block line of sight to his property. Mr. St. Clair listed a number of advantages given to the petitioner which have never been offered to him.

*Mr. Dolin* closed the public hearing and discussion ensued.

*Mr. Earl* made note of his absence from the January public hearing and does not understand why the presentation veered away from the scope of the variance criteria onto discussion about the projects funding and building materials, or changing ordinances rather than applying for a variance. He identified the purpose of the Board of Zoning Appeals to grant variances to the text and not to change the text; illustrating his point by making note of a variance that was granted to Mr. St. Clair several months ago for a Conditional Use. *Mr. Earl* believes that the parking study adequately provides the information needed to meet the criteria for variance. He is satisfied by the research presented by staff and the study done by the petitioner that challenges in parking would be unlikely.

*Ms. Canup* expressed her desire to move forward with the vote on the height prior to discussing the parking variance. No other members were in objection.

*Ms. Canup* made a motion to **approve** BZA 22-V-18; *M. Earl* seconded the motion.

Roll Call BZA: Mr. Earl, Yes; Ms. Canup, Yes; Mr. Dolin, Yes

BZA petition for a **variance** was **approved** with a vote of 3 Yes to 0 No.

*Ms. Canup* expressed her appreciation that the petitioner reached out to the community for their input and is satisfied with the 1:1 parking ratio. She thanked Ms. Lockman for her research and presentation.

*Mr. Dolin* reflected on the concerns the Board had at the January meeting regarding the parking and believes that the issues have been addressed by the petitioners.

*Ms. Canup* went through the criteria for a variance and all members agreed that the request satisfied each one.

*Mr. Earl* made a motion to **approve** BZA; *Ms. Canup* seconded the motion.

Roll Call BZA: Ms. Canup, Yes; Mr. Earl, Yes; Mr. Dolin, Yes

BZA petition for a **variance** was **approved** with a vote of 3 Yes to 0 No.

### **BZA 22-V-20**

A petition for a variance to continue a non-conforming multi-family use in an R-2 Single-Family Residential district. The property is located at 372, 372 Rear, and 372 ½ Michigan St.

*Petitioner:* Angela Maynard, as trustee, 525 Burlington Rd., Huntington, WV

*Property Owner:* The John & Ethel Edmonds Family Trust, 4435 Auburn Rd. Huntington, WV

Angela Maynard, owner of the property, presented the petition, beginning with a history of her family's investment in the property on Michigan St. which was purchased in 1991 as a single family home with a duplex unit in the rear. She provided evidence to staff and the Board to authenticate the property has operated as 3 units, the evidence is included in the packet. Ms. Maynard told the Board that she is trying to sell the property and has a buyer that is willing to buy so as long as it remains a multi-family property. The property has not been well maintained in the last few years due the failing health of her parents and believes that the new owners would do the work needed to make the properties habitable.

*M. Earl* – What does abandonment mean in this case? And how long would the variance last if granted?

Ms. Lockman explained that the use of the property as a multi-family is non-conforming due to the zoning of the area being an R-2 Single-Family Residential District. The code considers a use or structure abandoned when there has been a vacancy for a year or more. In this case, one of the rear units has been abandoned for more than a year. Ms. Maynard confirmed that the upstairs apartment in the rear structure has been vacant for several years.

Ms. Lockman informed the Board that if the variance were granted, the new property owner would have one year from the date of approval to rent out the unit.

Ms. Lockman presented the Staff Report.

*Mr. Dolin* – Has this property been granted a variance before that allowed it to operate as a multi-family?

Ms. Lockman told the Board that it is unclear if approvals were granted for the unit in the rear; there is no record of a variance being granted for this property.

*Ms. Canup* – Presumably, all the parking would be on Michigan Street?

Ms. Lockman stated that there is enough off-street parking for two cars, but the rest of the parking would be on-street as there is not access for parking in the rear.

Jeff Maynard, spoke in favor of the petition, pointing out to the Board that there are several properties in that particular area of the city that have accessory dwelling unit in the rear yard; some occupied and some not. He admitted that the units on the property in question have not been well maintained and have not had the best tenants. He told the Board that not everyone owns a car and the property is very close to the bus route, a service he claimed to utilize when he occupied the unit several years ago. He also told the Board the most of these properties in this area have their own off-street parking.

Nathan Butcher, bother to a resident of a neighboring property, read into the record a prepared statement written by his brother, Joseph King, which is included in the file.

Ms. Lockman read into the record two other messages submitted to the planning office in opposition to the petition from Cindy and David Chandler and Michael Morgan. Both statements have been included in the file.

*Mr. Earl* questioned if there were a way to condition an approval on the new owner adding additional parking in the front yard. *Ms. Hernandez* stating that enforcement on a new owner would be challenging.

Beth King, aunt to Joseph King, prior owner of the property where M. King now resides, and resident of the neighborhood for 20+ year, speaking in opposition to the petition, informed the Board that prior tenants have not been respectful of the property or the neighborhood. She said that the property was at one time very well maintain, but has gone so far downhill as to only attract tenants who have little care for the neighborhood. She does not believe the property could attract tenants that will respect the neighborhood with the shape that the structures are in now. *Ms. King* concluded by informing the Board that in the past the parking in the front was only ever for the use of the tenants in the house and never for the tenants in the rear.

*Mr. Earl* – Do you know of any other properties in the area with active rental units in the rear?

*Ms. King* told the Board that she knew of no other property on the road that rented out units in the rear. The property she once owned had an apartment in the rear, but it was already run down by the time she bought it and used it solely as a storage building. When her nephew bought the property from her and moved in, he tore the unit down.

*Ms. Canup* spoke of her experience with the neighborhood and confirmed that the roads are very tight and there is very little parking for residents, let alone the addition of visitors. She is sympathetic to the neighbor complaints about tenants, but is also aware that there is no knowing what kind of tenants you get when renting. *Ms. Canup* is compelled by the testimony from so many neighboring property owners speaking against the petition. She pointed out that when it comes to developers there is also an unknown as to the amount of money they are willing to invest in the property and the neighborhood. She detailed her experience with the property she owns in the city and stated that she demolished the accessory dwelling unit in the rear when she was informed that it could not be rented out, but understands that demolishing a structure can be expensive. *Ms. Canup* believes that this neighborhood is heading in a direction of revitalization and is hesitant to approve the variance.

*Mr. Dolin* echoed *Ms. Canup*'s experience of the area and the issue of parking. He expressed his concern that if the variance is not approved, the structure will become more of a blight to the neighborhood.

*Ms. Hernandez* informed the Board that the property, regardless of their decision this evening, could still operate as a two-family dwelling as not all unit are abandoned. The variance is for the single, abandoned, upstairs unit in the rear structure.

*Mr. Earl* expressed that he did not care for the abandonment rule, but is satisfied that there is a path forward to operate the property as a multi-family. He asked the petitioner what the potential buyers proposed to do in order to fix the properties. *Ms. Maynard* told the Board she believed that the buyer has patching and painting in mind for the units and a new stair case for the accessory dwelling, but was unsure what else would be planned.

*Ms. Canup* expressed that she would feel more comfortable with this petition if the buyer were the one before them.

*Mr. Earl* echoed the same, stating any conditions put on an approval are less enforceable on someone who is not the petitioner. *Ms. Maynard* told the Board that the buyer was unwilling to invest if they

could not run the property as a multi-family and did not know prior to this meeting that two of the unit were fine to continue operating.

*Ms. Canup* made a motion to **approve** BZA 22-V-20; *M. Earl* seconded the motion.

Roll Call BZA: Ms. Canup, No; Mr. Earl, No; Mr. Dolin, No

BZA petition for a **variance** was **denied** with a vote of 0 Yes to 3 No.

The Board suggested that Ms. Maynard sell the property as two units and instruct the buyer to apply for the variance to the third unit if they choose.

The meeting concluded at 7:03 p.m.

Date approved: \_\_\_\_\_

Chairperson: \_\_\_\_\_ Prepared by: \_\_\_\_\_  
C.W. Dolin, Chair Patricia Usher, Zoning Officer

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE  
COUNTIES, WEST VIRGINIA

**BZA 22-V-18**

*Owner:* City of Huntington Land Bank

*Petitioner:* Barnett Commons L.P.

Subject Property: 1524 10th Avenue

A petition for a variance from the height limitation in a C-1 Neighborhood Commercial Zone of three (3) stories to build a four (4) story building.

Individual Speaking on Behalf of Petition: Steve Golder, Esq.

Other Interested Parties: Sandra Clements, Cicero Fain, Bill St. Clair, Esq., Sam St. Clair

**ORDER**

On June 2, 2022, Petitioner appeared before the City of Huntington Board of Zoning Appeals by counsel, Steve Golder, to present Petition BZA 22-V-18. Other citizens were permitted to voice their positions as well, per the practice of this Board, and four individuals provided testimony.

**FINDINGS OF FACT**

After reviewing all evidence provided at the June 2, 2022 meeting, the Board finds as follows:

1. Barnett Commons L.P. is the petitioner.
2. City of Huntington Land Bank is the property owner.
3. The property is zoned C-1 Neighborhood Commercial.
4. The proposed structure is 4 stories and 40' tall. Maximum height in a C-1 District is 3 stories/45' tall.
5. The property is 27,275 square feet.
6. The lot has an unusual shape, like a backwards P, and is only 40 feet wide in some locations.
7. Since the last hearing, Petitioner met with the Fairfield community regarding the project.
8. Petitioner made changes to the development plan in light of the community's requests and concerns.
9. The proposed height for this development is 40 feet.
10. The total amount of units proposed is 32.
11. The majority of the living space in this development is intended for senior housing.
12. This property has been vacant for 4 years and on the market for sale for 2 years.
13. All documents provided to this Board, including those provided at the hearing from sworn witnesses and counsel, from staff in anticipation of the hearing, and the approved minutes, are made part of the record.

**STANDARD OF REVIEW**

When hearing a **Variance**, the Board must consider:

1. The requested Variance will not adversely affect the public health, safety, or welfare, or the rights of the adjacent property owners or residents;

2. That the Variance arises from special conditions or attributed which pertain to the property for which a Variance is sought. Such special conditions may not be created by the person seeking the Variance;
3. That the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. That the Variance will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

### CONCLUSIONS OF LAW

The Neighborhood Commercial district is intended to have uses harmonious to neighboring residential districts. The Board is pleased with the petitioner's efforts to seek out input from the community in reimagining the plans for development and the incorporation of their ideas in the communal spaces and the inclusion of plaques in commemoration of to the Barnett family legacy. The involvement of the community in the redrawing of the development plans has helped preserve the rights of adjacent property owners and the general public so that they are not likely to suffer any adverse effect from the additional story.

The unusual shape of the lot is a special condition that creates limitations in how it can be developed, and, therefore, creates a hardship that is a condition of the land and not created by Petitioner. Additionally, a multi-tenant residential building is reasonable use for this peculiar lot and granting the variance would promote coordinated and practical community development, allowing the intent of the Zoning Ordinance to be observed and substantial justice done. Therefore, the approval of the variance is appropriate.

### DECISION

**WHEREFORE**, based upon the findings of fact from the full testimony heard at the hearing and all other documentary evidence presented, the Board **approves** petition BZA 22-V-18 for a **Variance**. Any changes that deviate from what has been approved and does not meet the zoning regulation must come back before the BZA for approval.

ENTERED

\_\_\_\_\_   
Date

Chairperson: \_\_\_\_\_ Prepared by: \_\_\_\_\_   
C.W. Dolin, Chair Patricia Usher, Zoning Officer

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE  
COUNTIES, WEST VIRGINIA

**BZA 22-V-19**

*Owner:* City of Huntington Land Bank

*Petitioner:* Barnett Commons L.P.

Subject Property: 1524 10th Avenue

A petition to provide fewer parking spaces than required for multi-family housing. Per the requirements, 51 spaces would be required for the 32 unit development. 32 spaces are proposed.

Individual Speaking on Behalf of Petition: Steve Golder, Esq.

Other Interested Parties: Sandra Clements, Cicero Fain, Bill St. Clair, Esq., Sam St. Clair

**ORDER**

On June 2, 2022, Petitioner appeared before the City of Huntington Board of Zoning Appeals by counsel, Steve Golder, to present Petition BZA 22-V-19. Other citizens were permitted to voice their positions as well, per the practice of this Board, and four individuals provided testimony.

**FINDINGS OF FACT**

After reviewing all evidence provided at the June 2, 2022 meeting, the Board finds as follows:

1. Barnett Commons L.P. is the petitioner.
2. City of Huntington Land Bank is the property owner.
3. The property is zoned C-1 Neighborhood Commercial.
4. Per the requirements in Article 1343, the proposed project is required to provide 51 parking spaces.
5. The petitioner proposes providing 30 parking spaces and 2 handicapped parking spaces at this location to serve 26 elderly units and 6 family units.
6. The property is 27,275 square feet.
7. The lot has an unusual shape, like a backwards P, and is only 40 feet wide in some locations.
8. Additionally, the property is bounded on three sides by public roads or alleys. The remaining side, to the north, is an occupied business.
9. Since the last hearing, Petitioner met with the Fairfield community regarding the project.
10. Petitioner made changes to the development plan in light of the community's requests and concerns.
11. The total amount of units proposed is 32.
12. The majority of the living space in this development is intended for senior housing.
13. A parking ratio of 1:1 is acceptable for this type of development.
14. This property has been vacant for 4 years and on the market for sale for 2 years.
15. All documents provided to this Board, including those provided at the hearing from sworn witnesses and counsel, from staff in anticipation of the hearing, and the approved minutes, are made part of the record.

**STANDARD OF REVIEW**

When hearing a **Variance**, the Board must consider:

1. The requested Variance will not adversely affect the public health, safety, or welfare, or the rights of the adjacent property owners or residents;
2. That the Variance arises from special conditions or attributed which pertain to the property for which a Variance is sought. Such special conditions may not be created by the person seeking the Variance;
3. That the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. That the Variance will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

**CONCLUSIONS OF LAW**

The Neighborhood Commercial district is intended to have uses harmonious to neighboring residential districts. Parking issues, however, are often anything but harmonious. Based upon the expert report, as well as comments from the neighborhood community, the Board is much more comfortable that a parking reduction will not adversely affect the public health, safety, or welfare, or the rights of the adjacent property owners or residents than when the matter last came before this body.

The unusual shape of the lot, together with its location, create a special condition that limits how the lot can be developed; therefore, creating a hardship that is a condition of the land and not created by Petitioner. Having multi-family housing in this location will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

Therefore, the approval of the variance is appropriate.

**DECISION**

**WHEREFORE**, based upon the findings of fact from the full testimony heard at the hearing and all other documentary evidence presented, the Board **approves** petition BZA 22-V-19 for a **Variance**. Any changes that deviate from what has been approved and does not meet the zoning regulation must come back before the BZA for approval.

ENTERED

\_\_\_\_\_  
Date

Chairperson: \_\_\_\_\_ Prepared by: \_\_\_\_\_  
C.W. Dolin, Chair Patricia Usher, Zoning Officer

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE  
COUNTIES, WEST VIRGINIA

**BZA 22-V-20**

*Owner:* The John & Ethel Edmonds Family Trust

*Petitioner:* Angela Maynard, as trustee

Subject Property: 372, 372 Rear, and 372 ½ Michigan St

A petition for a variance to continue a non-conforming multi-family use in an R-2 Single-Family Residential district.

Individual Speaking on Behalf of Petition: Angela Maynard

Other Interested Parties: Jeff Maynard, Nathan Butcher, and Beth King

**ORDER**

On June 2, 2022, Ms. Maynard appeared before the City of Huntington Board of Zoning Appeals to provide testimony related to BZA 22-V-20. Other citizens were permitted to voice their positions as well, per the practice of this Board, and three individuals provided testimony.

**FINDINGS OF FACT**

After reviewing all evidence and testimony at the June 2, 2022 meeting, the Board finds as follows:

1. Angela Maynard is the petitioner as trustee for the property owner.
2. Ms Maynard is also the daughter of the former owners.
3. The John & Ethel Edmonds Family Trust is the property owner.
4. The property is zoned R-2 Single Family.
5. The property has three dwelling units: the front house and two units to the rear in a detached second building.
6. The petitioner is requesting a variance to the one year abandonment period in order to continue a non-conforming multi-family residential use.
7. The petitioner is requesting this variance to aid in the sale of the property, since all potential buyer thus far have been interested in operating a multifamily rental.
8. The lot is approximately 5,200 sf. Staff does not believe that granting this variance will adversely affect the public health, safety or welfare, or rights of adjacent property owners or residents.
9. The property has fallen into disrepair.
10. At the date of the hearing, the property is vacant.
11. The front unit was occupied until February 2022.
12. The lower rear unit was occupied until December 2021.
13. The upper rear unit has been vacant for several years.
14. The lot has a driveway from the street that can accommodate two cars.
15. The rear of the property on the alley cannot accommodate off-street parking.
16. Most of the neighboring properties have small lots.
17. The houses in the neighborhood are densely proportioned.
18. Street parking on Michigan Street is available only on one side of the street.
19. The streets of the neighborhood are narrow.

**STANDARD OF REVIEW**

When hearing a **Variance**, the Board must consider:

1. The requested Variance will not adversely affect the public health, safety, or welfare, or the rights of the adjacent property owners or residents;
2. That the Variance arises from special conditions or attributed which pertain to the property for which a Variance is sought. Such special conditions may not be created by the person seeking the Variance;
3. That the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. That the Variance will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

**CONCLUSIONS OF LAW**

City of Huntington Ordinance Section 1355(G) provides that, if a nonconforming use of any building or premises is discontinued for one (1) year, abandonment will be presumed unless the owner of the property can show that the property has not been abandoned. The Board is sympathetic to the petitioner’s desire trying to sell the property that has historically operated as a three-unit multi-family, but may now only operate as a two- -family by right due to the abandonment of the use of the third unit. Even at a two-family, the property remains nonconforming.

We are concerned that granting a variance to restore the use of the nonconforming third units would have an adverse effect on the neighborhood, which already has narrow streets, small lots, and a dense population, particularly without any information regarding the intentions of the proposed buyer.

We also are cognizant that the property is deteriorating and that no rehabilitation will occur until the property sells. However, at this time, with the information available to us, we cannot find a variance to be appropriate. Once the property is in the hands of someone who intends to rehabilitate it and more information regarding the intended use is available, we would be open to revisiting this question, as the new owner would be able to discuss the intentions for future use.

The Board concludes that the approval of the variance would not be appropriate with an owner who does not intend to renovate or maintain the property.

**DECISION**

**WHEREFORE**, based upon the findings of fact from the full testimony heard at the hearing and all other documentary evidence presented, the Board **DENIES** petition BZA 22-V-20 for a **Variance**.

ENTERED

\_\_\_\_\_  
Date

Chairperson: \_\_\_\_\_ Prepared by: \_\_\_\_\_

C.W. Dolin, Chair

Patricia Usher, Zoning Officer

**Staff Report:** A petition for a conditional use permit for an off-site parking lot and a variance to allow a commercial gravel parking lot.

**Legal Ad**

**BZA 22-C-21 & 22-V-22**

*Issue:* A petition for a conditional use to allow for an off-site parking lot in a C-2 Highway Commercial District. The property is located at 1302 Washington Avenue.

*Petitioner:* C & B Used Autos LLC. 1250 Washington Ave. Huntington, WV

*Property Owner:* William Slone, 1302 Washington Ave. Huntington, WV

*Issue:* A petition for a variance to the materials requirements for commercial parking lots to allow for a gravel parking lot in a C-2 Highway Commercial District. The property is located at 1302 Washington Avenue.

*Petitioner:* C & B Used Autos LLC. 1250 Washington Ave. Huntington, WV

*Property Owner:* William Slone, 1302 Washington Ave. Huntington, WV

**Introduction**

Mr. Slone is requesting a conditional use permit for an off-site parking lot at 1302 Washington Ave and a variance to allow for the commercial off-site parking lot to be gravel instead of paved. The property is zoned C-2 Highway Commercial District.

**Existing Conditions / Background**

This property is a gravel lot that has been used as over-flow parking for C&B Used Autos. There is an existing paved curb cut that is approximately 15' by 20.' This

property is zoned C-2 Highway Commercial District.

The Planning & Zoning office was alerted to a sign had been erected on the lot without a permit in November 2021. In reviewing the property, it was found that the property owners and the Planning office had not completed the review process for the lot back in 2016. Following the November 2021 compliance letter, the petitioner removed the sign; however, second letter in February 1, 2022 was necessary to address the gravel lot and junked vehicles that were observed being stored on the lot; junk yards are not permitted in a C-2 District. The inoperable vehicles were removed following a 3<sup>rd</sup> letter sent on March 7, 2022.

Since that time to owner has been working with staff to submit compliant plans and seek approvals for the lot.

**Proposed Conditions**

The petitioner is proposing to continue using this lot as an off-site parking lot for overflow parking for their business across 13<sup>th</sup> St. W., C & B Used Autos.

The petitioner is requesting to allow this lot to remain a gravel lot. The site plan submitted by the petitioner proposes removing some of the existing gravel to meet setback requirements for parking lots, leaving a 40' by 80' (3,200 SF) gravel lot. Bushes or grass would be planted along the Washington Ave., and 13<sup>th</sup> St. W. side. The remainder of the lot towards the alley would be grass. Please see attached site plan.

## Zoning Ordinance

Per *Table 1320.A*, off-site parking lots are a conditional use in a C-2 District.

Per *Article 1345.05(4)*, all parking areas and driveways shall be a paved surface except parking spaces accessory to one-family or two-family dwellings.

## Pictures



*1302 Washington Ave. looking from 13<sup>th</sup> St. W.  
Note paved curb cut.*



*Existing gravel lot.*



*Rear of property. Existing grass and vehicles.*

## Staff Comments

Plan 2025 designates this area as Transition Commercial.

As this lot has been used as an off-site parking lot without complaints from the neighborhood, staff does not believe that granting the conditional use for an off-site parking lot would have a negative effect on the comprehensive plan, public health, safety, morals or general welfare of the area.

The submitted site plan brings the existing parking lot into compliance with setback requirements for new commercial parking lots. The petitioner would need to move and remove gravel, potentially add gravel, and plant grass or bushes on the existing lot to bring it in line with the submitted site plan. Staff does not believe that granting the variance for gravel would impair health, safety, or welfare of nearby residents and property owners and would allow for a reasonable use of the property.

### **Summary / Findings of Fact**

1. C & B Used Autos LLC is the petitioner.
2. William Slone is the property owner.
3. The property is zoned C-2 Highway Commercial District.
4. The petitioner is requesting to have an off-site parking lot.
5. The petitioner is requesting to have a gravel commercial lot, rather than paving the lot as required by zoning code.
6. The petitioner is proposing to reduce the amount of the lot covered by gravel in order to meet setback requirements.
7. The lot is approximately 7,750 sf.

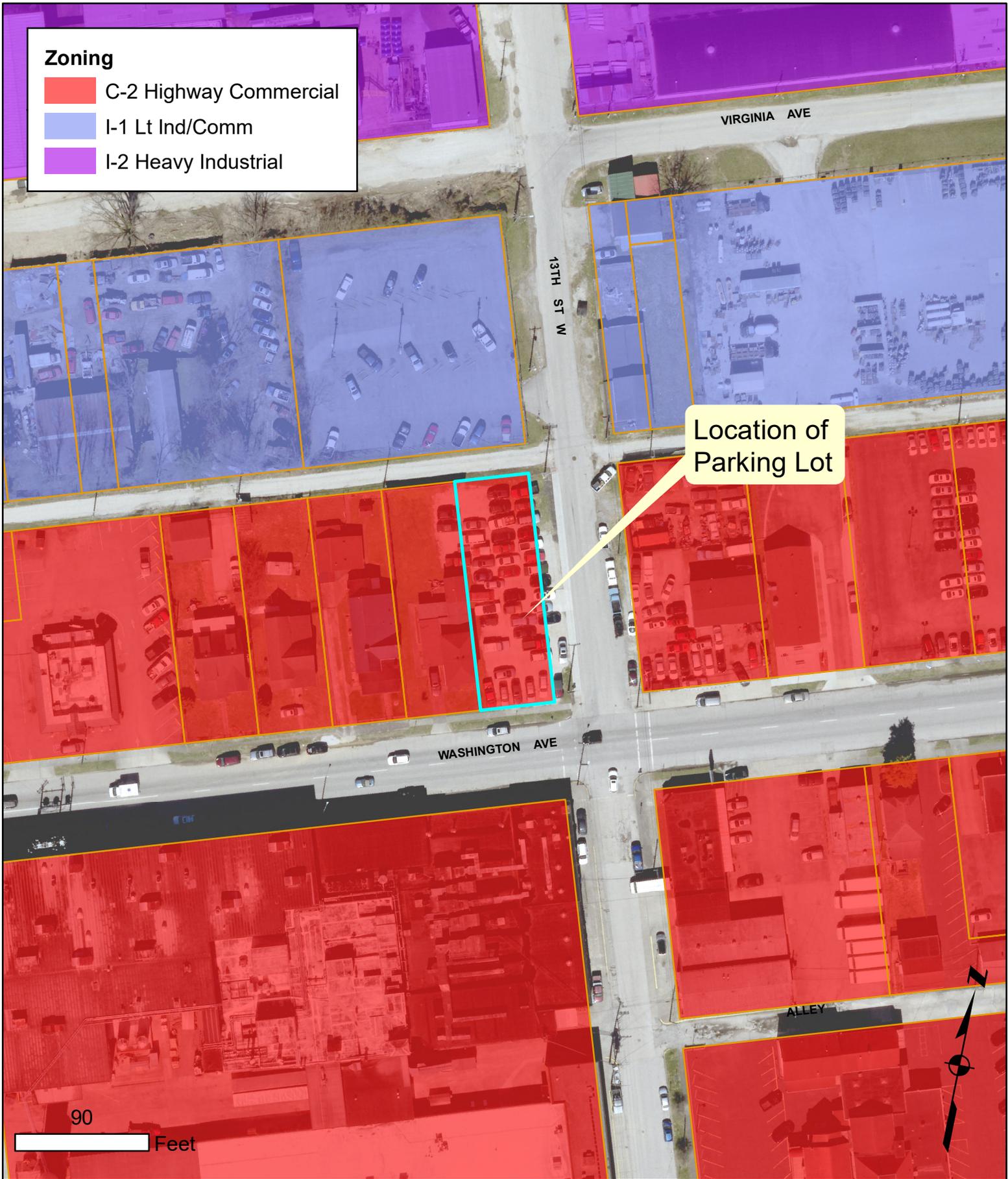
### **Attachments**

- Aerial Map
- Zoning Map
- Future Land Use Map
- Site Plan



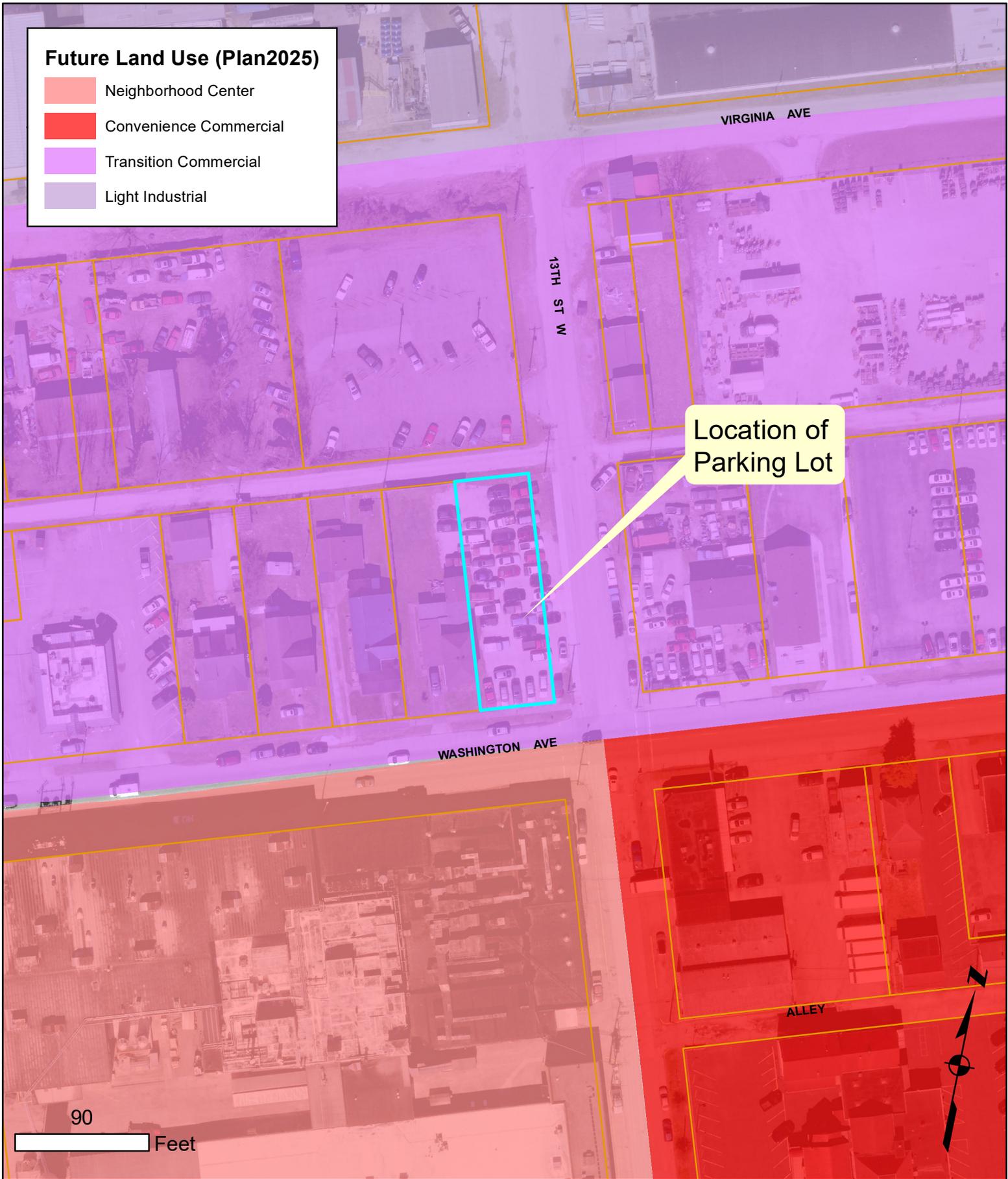
**1302 Washington Ave.  
Conditional Use for Off-Site Parking Lot  
& Variance for Commercial Gravel Parking Lot  
BZA 22-C-21 & 22-V-22**





**Zoning Map - 1302 Washington Ave.  
Conditional Use for Off-Site Parking Lot  
& Variance for Commercial Gravel Parking Lot  
BZA 22-C-21 & 22-V-22**





**Future Land Use Map - 1302 Washington Ave.  
 Conditional Use for Off-Site Parking Lot  
 & Variance for Commercial Gravel Parking Lot  
 BZA 22-C-21 & 22-V-22**





# PLANNING & ZONING

City of Huntington  
**Planning & Zoning**  
P.O. Box 1659 | Huntington, WV 25717  
(304) 696-5540, option 3  
planningdept@huntingtonwv.gov

## Conditional Use Permit Application

**Applicant Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Mailing Address (city, state, zip):** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Property Owner (if applicable):** \_\_\_\_\_ **Phone:** \_\_\_\_\_

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

### **Description**

Under the terms and conditions indicated in Article 1359 of the Zoning Ordinance, application is hereby made for a Conditional Use pursuant to Article \_\_\_\_\_ to allow the following:

### **The following exhibits are to be attached and made part of this application:**

- Site Plan of Real Estate involved (if applicable): **Drawn to Scale** with scale shown, the direction of North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc).
- Valid State or Federal Photo ID.
- Any and all documentation and evidence to support the request.
- Treasurers Receipt for One Hundred Sixty Dollars (\$160.00) non-refundable filing fee for each Conditional Use sought.

All of the above documentation is to be submitted to the Planning Commission office by \_\_\_\_\_.

Incomplete documentation will delay applicants review by the Board of Zoning Appeals.

### **Notice of Procedure**

I/We, the undersigned am/are aware that the Board of Zoning Appeals will hold a public hearing on the request for a Conditional Use on **Tuesday**, \_\_\_\_\_ at **5:30pm** in City Hall Council Chambers. It is my responsibility to attend (or send a representative/agent) to this meetings to present plans and to answer any questions regarding the request for a Conditional Use.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

*\*All applications to be submitted must be typed or legibly written in blue or black ink.*

For office use only	
Received:	Project Name:



# PLANNING & ZONING

City of Huntington  
**Planning & Zoning**  
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(304) 696-5540, option 3  
planningdept@huntingtonwv.gov

## Application for Conditionally Permitted Use

### ATTACHMENT A

In making its decision to approve or deny Conditional Use, The Board of Zoning Appeals must consider six issues. Please provide a written statement on how the proposed Conditional Use will affect each of the following considerations:

1. Effect upon the Comprehensive Plan (available online):

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2. Effect upon public health, safety, and general welfare:

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3. Effect upon the use and enjoyment of other property in the immediate vicinity for the purposes already permitted:

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4. Effect upon the normal and orderly development and improvement of the surrounding properties for uses already permitted in the district:

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5. Have adequate provisions for utilities, access roads, drainage, and other facilities been provided for:

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6. Has adequate ingress and egress been designed to minimize traffic congestion on the public street:

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# PLANNING & ZONING

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P.O. Box 1659 | Huntington, WV 25717  
(304) 696-5540, option 3  
planningdept@huntingtonwv.gov

## Application for Conditionally Permitted Use

### ATTACHMENT B

Additional requirements pertaining to the Conditional Use may exist in the City of Huntington Zoning Ordinance. These additional requirements may exist within the General Regulations, specific districts to include overlay districts, or other articles of the ordinance. Please consult with the Planning and Zoning office to help identify these additional requirements.

List all each Article and Section numbers pertaining to this Conditional Use and give a brief description as to how each of the requirements shall be met:

**Article** \_\_\_\_\_

Brief description of the requirement:

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How will the requirement be met:

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**Article** \_\_\_\_\_

Brief description of the requirement:

---

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How will the requirement be met:

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**Article** \_\_\_\_\_

Brief description of the requirement:

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How will the requirement be met:

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**Article** \_\_\_\_\_

Brief description of the requirement:

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How will the requirement be met:

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**Article** \_\_\_\_\_

Brief description of the requirement:

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How will the requirement be met:

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# PLANNING & ZONING

City of Huntington  
**Planning & Zoning**  
P.O. Box 1659 | Huntington, WV 25717  
(304) 696-5540, option 3  
planningdept@huntingtonwv.gov

## Variance of Zoning Regulations Application

**Applicant Name:** C & B USED AUTOS LLC Phone: 304-697-8200

Mailing Address (city, state, zip): 1250 WASHINGTON AVE

Email: slonebill@yahoo.com

**Property Owner (if applicable):** William F Slone Phone: 850-368-4074

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

1302 WASHINGTON AVE, LOT #31 & #32, BLK # 91

**Variance request pursuant to:** MATERIALS

Article 1343.05(B) (4) and/or Figure \_\_\_\_\_ of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

PLEASE grant us a variance for this. We do not have the funds to pave this lot.

Describe the special conditions or attributes which pertain to the property or hardship for which the variance is sought (state any reason the Board of Zoning Appeals should be aware of in determining its decision):

We do not have the funds to pave this lot. It is an extension of our carlot across the street. We are actively trying to sell this lot. Heiners Bakery has shown an interest in purchasing the lot.

***(Attach additional pages if necessary)***

### The following exhibits are to be attached and made part of this application:

- Site plan the property involved (if applicable); drawn to scale, showing all boundary lines and the placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, ect.).
- Valid State and Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One hundred sixty dollars (\$160) non-refundable filing fee for each variance sought.

All of the above documentation shall be submitted in full to the Planning and Zoning office by \_\_\_\_\_ in order to be placed on the next Board of Zoning Appeals (BZA) agenda. An incomplete submittal will delay the applications review by the BZA.

*I/We, the undersigned, am/are aware that a public hearing by the Board of Zoning Appeals will be held on Tuesday, \_\_\_\_\_. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.*

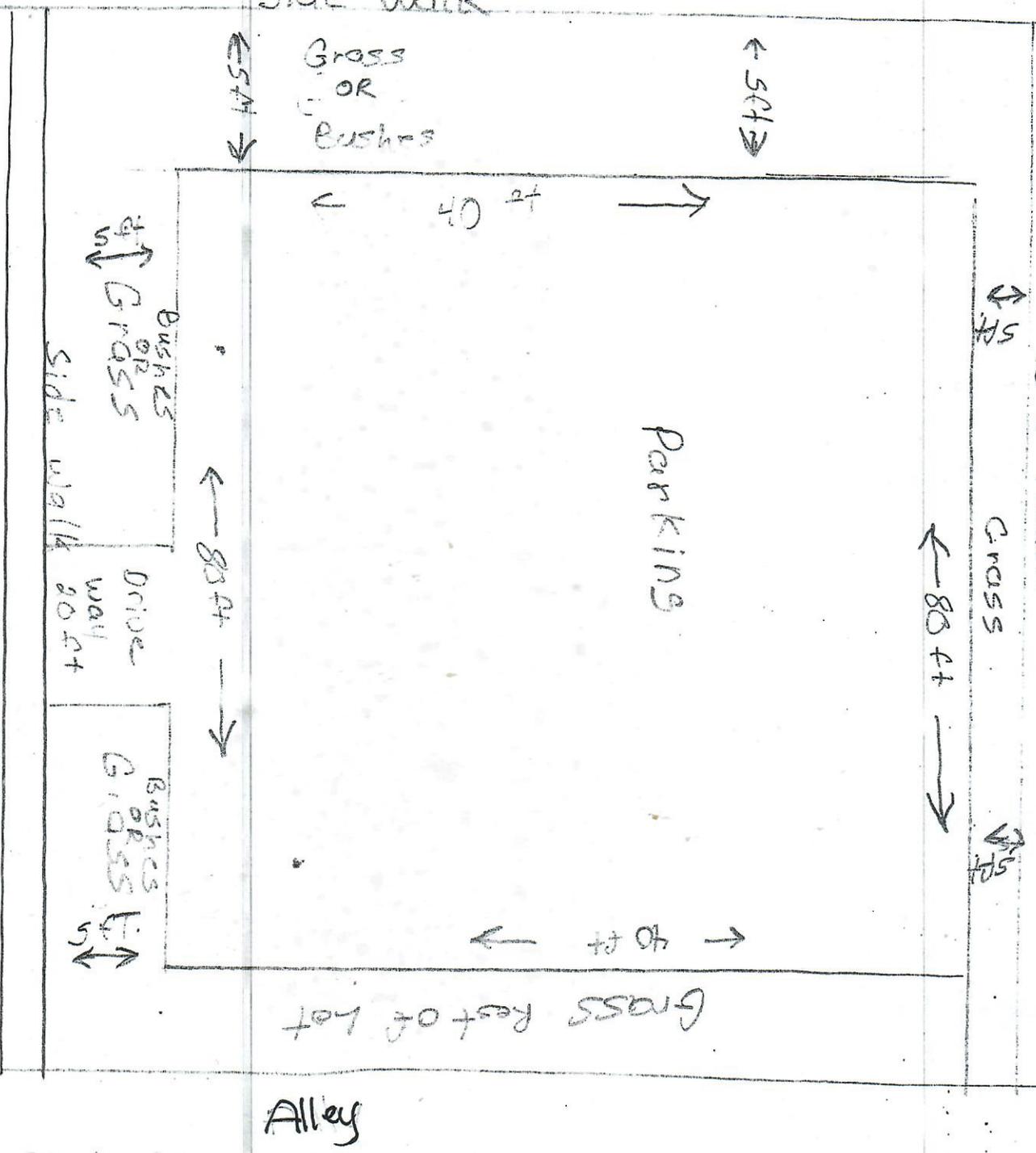
William F Slone   
Signature \_\_\_\_\_ Date \_\_\_\_\_

For office use only	
Received:	Project Name:

# Washington Ave

Side walk

13<sup>th</sup> Street West



These Plans are for 1328 Adams Ave  
Flow over lot for C&B used Auto Sales

uses as are normally conducted in the evening or on weekends in places of public assembly of such institutions.

**Section 1343.05 Automobile Parking Area Design Requirements**

- A. Areas computed as parking spaces. Areas that may be computed as open or enclosed off-street parking spaces may include any private garage, carport, or other area available for parking, other than a street, access lane, or a driveway with the following exception:
1. Residential, Single Family Detached. A driveway within a required front yard for a one-family residence may count as one (1) parking space provided there is at least eighteen (18) linear feet of driveway on the lot and not on the public right of way.

Stall Angle	(A) Stall Width (Min)	(B) Stall Depth (Min)	(C) Skew Width (Min)	(D) Drive Aisle Width, One-Way (Min)	(E) Drive Aisle Width, Two-Way (Min)	Min. Width 2 Stalls and 1 Drive Aisle	
						One-Way	Two-Way
0 Degrees	8'	18'	8'	11'	22'	19'	38'
30 Degrees	8' 6"	15'	16' 6"	11'	-	41'	-
45 Degrees	8' 6"	17' 9"	11' 8"	12'	-	47' 6"	-
60 Degrees	8' 6"	19'	9' 6"	13' 6"	-	51' 6"	-
90 Degrees	8' 6"	18'	8' 6"	-	23'	-	59'

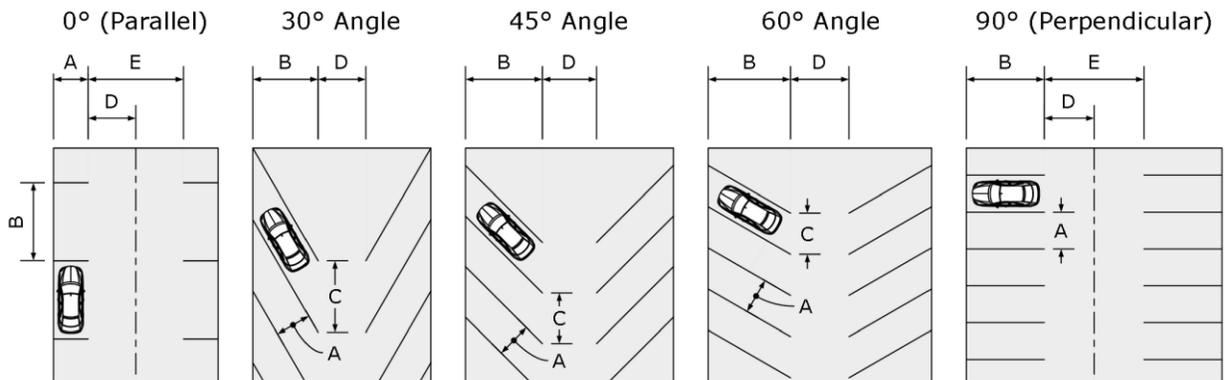


Figure 1343.A: Automobile Parking Stall and Drive Aisles

Stall Angle	(A) Stall Width (Min)	(B) Stall Depth (Min)	(C) Skew Width (Min)
0 Degrees	8'	16' 6"	8'
30 Degrees	8'	11'	16' 4"
45 Degrees	8'	13' 6"	10' 6"
60 Degrees	8'	16'	9' 3"
90 Degrees	8'	16' 6"	8'

B. Parking Lot Design Requirements

1. Access. See Section 1343.08.
2. Barriers and Curbs. All areas for off-street parking, off-street loading and unloading and the storage or movement of motor vehicles shall be physically separated from the street by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary and approved vehicle entrances and exits to the lot. All commercial and industrial parking areas approved after the adoption of this Ordinance shall be separated from the street by a landscaped strip of land of no less than five (5) feet.
3. Setbacks. All newly constructed parking lots shall be set back a minimum of three (3) feet from all property lines unless exempted in a district's supplementary regulations.
4. Materials. All parking areas and driveways shall be a paved surface except parking spaces accessory to one-family or two-family dwellings.
5. Sidewalks and Pedestrian Pathways.
  - a. In no case can a driveway or parking area block a city sidewalk.
  - b. Sidewalks between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur, shall be provided with a minimum width of four (4) feet of passable area and be raised six (6) inches or more above the parking area except when crossing streets or driveways. At points of intersection between pedestrian and motorized lines of travel, and at other points where necessary to avoid abrupt changes in grade, a sidewalk shall slope gradually so as to provide an uninterrupted line of travel. Guardrails and wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas, unless an additional sidewalk width of two and one-half (2-1/2) feet is provided to accommodate such overhang. Handicapped provisions shall be included in all sidewalks and curbing construction.
6. Landscaping and Drainage. Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area. General landscaping design shall conform to criteria set forth in Article 1347 of this Ordinance. All parking areas and access ways thereto shall be properly drained and all such areas shall be a paved surface except parking spaces accessory to one-family or two-family dwellings. A drainage plan shall be approved by the Director of Public Works. Parking viewed from the public right-of-way or from any property used for residential purposes shall be suitably shielded.
7. Lighting. All parking areas shall be lighted to provide a minimum of three (3) foot-candles at driveway intersections with main roads and a total average illumination of one-half (0.5) foot-candles throughout the parking area. Such lighting shall be shielded in such manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.
8. Interior Street Crosswalks. Where pedestrians must cross service roads or access roads to reach parking areas, crosswalks should be clearly designated by pavement markings and or signs. In non-residential districts, provision for pedestrian access between adjoining commercial lots should be encouraged.

**Section 1343.06      Handicapped Parking Standards**

- A. All regulations within the section are duplicative or are supplemental to the regulations

# City of Huntington Board of Zoning Appeals

June 21, 2022

**Staff Report** An appeal of the requirement, decision, or determination made by the administrative official charged with zoning enforcement.

## Legal Ad

*Issue:* An appeal of the requirement, decision, or determination made by the administrative official charged with the enforcement of the Zoning Ordinance, regarding denial of a home occupation permit for firearm sales.

*Petitioner:* Matthew Shafer, 3004 3<sup>rd</sup> Ave.  
Huntington, WV

## Introduction

Matthew Shafer is appealing a decision made by the Planning office denying a home occupation application for the sale of firearms.

## Existing Conditions / Background

Mr. Shafer applied for a home occupation permit on May 19, 2022 requesting a home occupation permit for a business selling firearms online. Please see the attached application and supportive materials.

The request was denied, as the Zoning Ordinance's retail sales classification does not include firearm sales. Further, wholesale or retail sales as a home occupation are prohibited except as an accessory to custom crafts, and in those cases, online, over the phone, or through mail only.

In 2015, the Zoning Ordinance was amended to distinguish firearm sales establishments and pawnshops as separate from other retail businesses in order to provide greater restriction on where they could be located.

The petitioner appealed the decision of the zoning official, stating that the ordinance passed in 2015 that separated firearm sales and pawnshops from other retail sales, does not accurately reflect his home business model which would sell firearms exclusively online and at gun shows.

## Proposed Conditions

If the appeal is granted by the Board, then the board is agreeing that the Planning office erred in their denial of this home occupation permit and Mr. Shafer will be permitted to sell firearms from his home.

## Zoning Ordinance

*Per Article 1341.22, Home Occupation*

Uses permitted as a home occupation include, but are not limited to: art studio, home craft businesses (including home craft brewery production (nanobrewery) in accordance with 1341.50), dressmaking, furniture making, office, custom sewing, clerical work, sales or survey over the telephone, tax preparation, musical instruction, tutoring of students, personal service businesses, trade businesses provided there is no on-site assembling, manufacturing, processing, or retail sales, repair service, day care in accordance with Section 1341.13, or one chair beauty or barber shop with no products sold from the premise.

F. The following uses shall not be permitted as a home occupation: veterinarian office, stable, kennel, funeral home, industrial uses (other than custom crafts and sewing), wholesale or retail sales on the premises (except as accessory to custom crafts and

except for sales over the phone, through the mail, or online), restaurant, repairs of motor vehicles or trucking company terminal, manufacturing, or repair of machinery, automobiles, trucks, and motorcycles.

*Article 1315.02, Definitions* separates establishments that sell firearms from other retail establishments. See definitions below.

**Firearms Sales Establishments** – an establishment engaged in the sale, manufacture for sale, or repair of fire arms, ammunition and ammunition components, and hunting or shooting equipment.

**Retail Sales and Services** – establishments primarily engaged in the sale of goods and materials to the general public. Retail commercial uses may include, but are not limited to, bookstores, antique stores, convenience stores, bakeries, grocery stores, and other similar uses.

Retail Sales and Services are permitted to some degree in all commercial and industrial districts. Firearms Sales Establishments are permitted by right only in the C-2 Highway Commercial District and I-2 Heavy Industrial District.

<b>Commercial</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>
<b>Firearms Sales Establishments</b>		●	○		●
<b>Retail Sales And Services</b>	○	●	●	●	●
<b>Retail Sales and Services, Neighborhood</b>	●	●	●	●	●

**Summary**

1. Matthew Shafer is the petitioner.
2. The petitioner applied for a home occupation to sell firearms online.

3. The Planning Office denied his petition on May 19, 2022.
4. Mr. Shafer believes that his business was inaccurately classified as a firearm sales establishment.
5. The property is located at 3004 3<sup>rd</sup> Ave.
6. This property is located in an R-4 Two-family Residential District.

**Attachments**

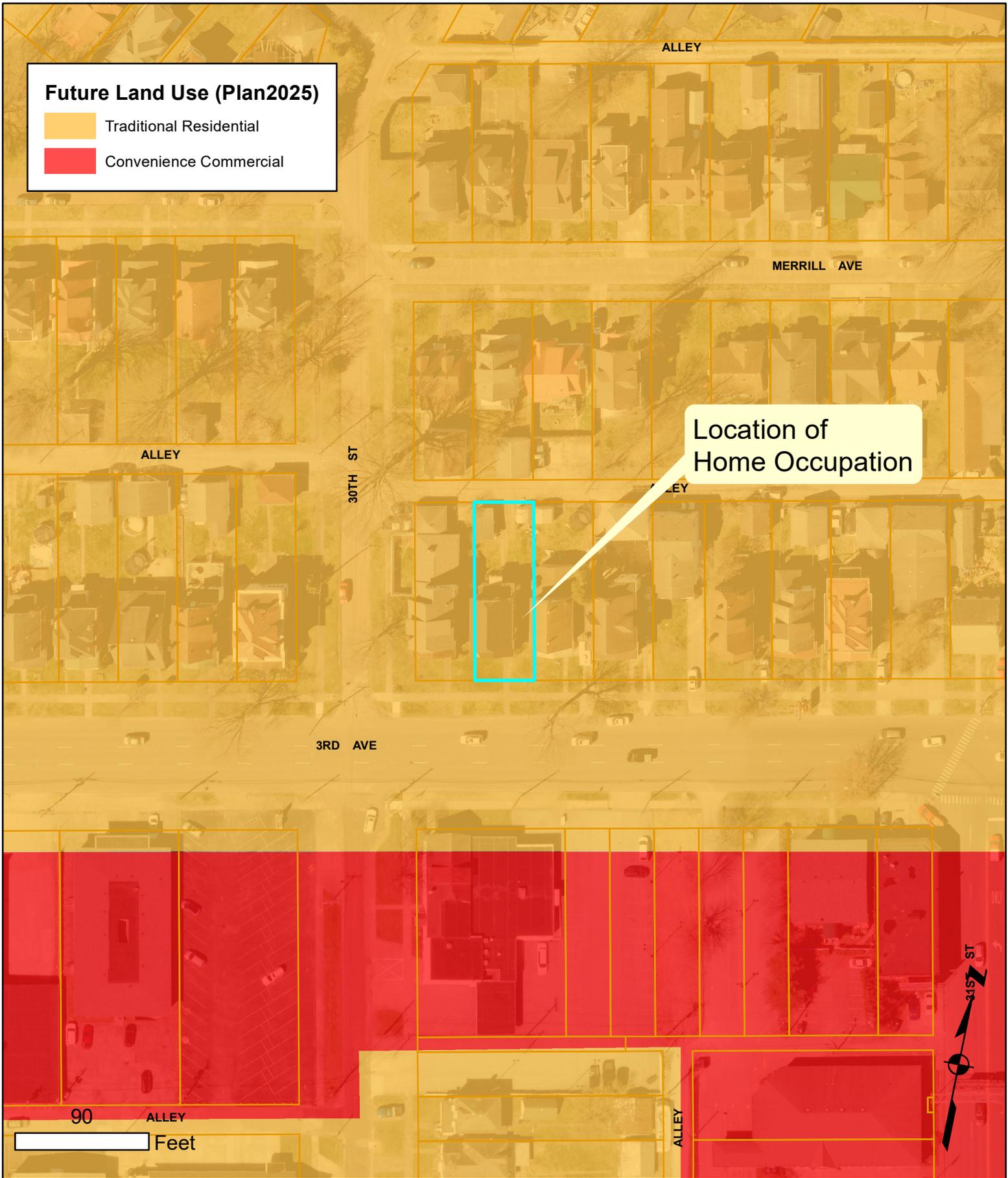
- 22-A-23 Appeal with Documents
- Aerial Map
- Location Map
- Zoning Map
- 1341.22 Home Occupation Regulations
- Home Occupation Application and Supporting Material



Location of Home Occupation

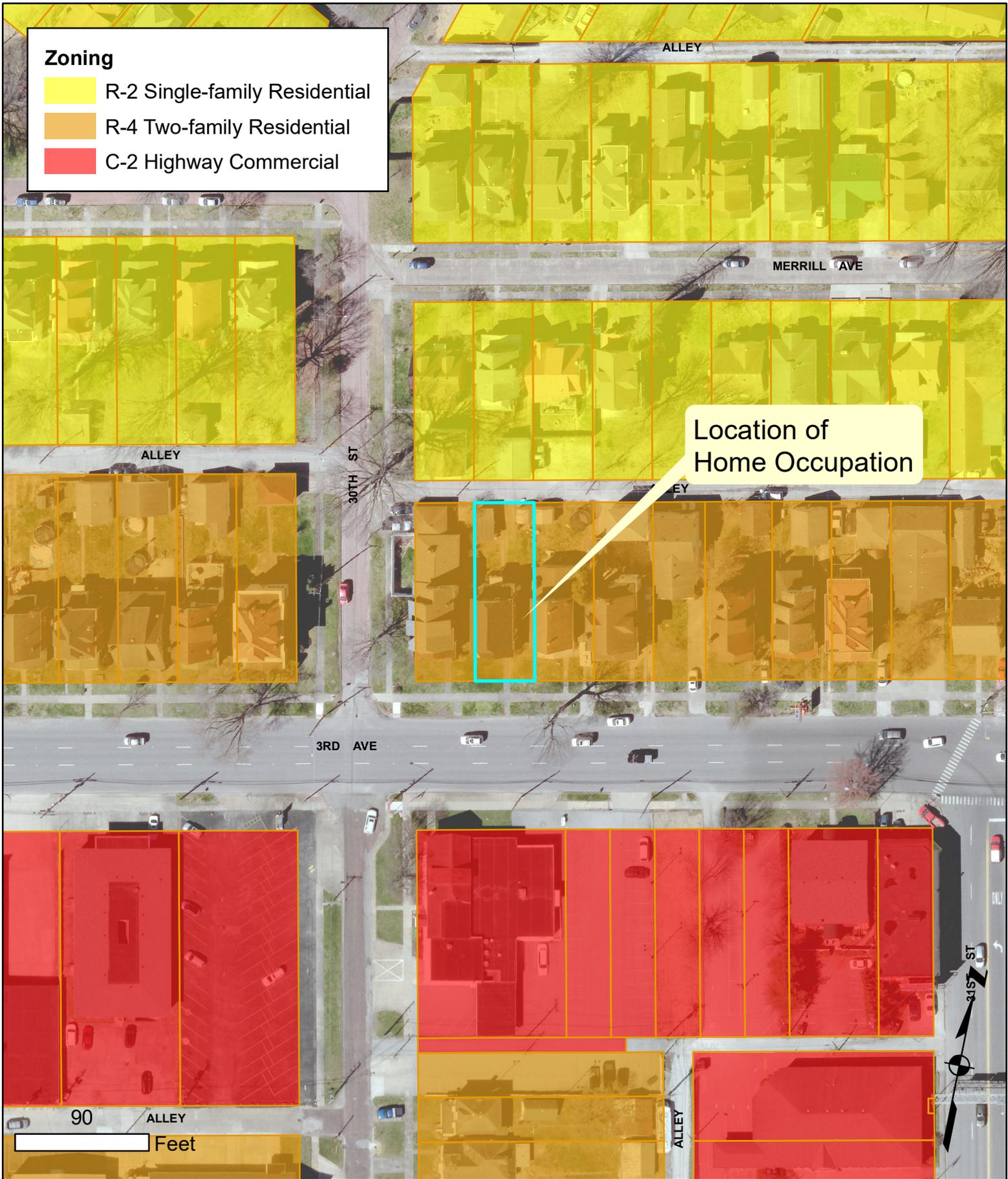
**3004 3rd Ave.  
Appeal to Home Occupation Decision  
BZA 22-A-23**





**Future Land Use Map**  
**3004 3rd Ave.**  
**Appeal to Home Occupation Decision**  
**BZA 22-A-23**





**Zoning Map**  
**3004 3rd Ave.**  
**Appeal to Home Occupation Decision**  
**BZA 22-A-23**





# PLANNING & ZONING

City of Huntington  
Planning & Zoning  
P.O. Box 1659 | Huntington, WV 25717  
(304) 696-5540, option 3  
planningdept@huntingtonwv.gov

## Application for an Appeal to the Board of Zoning Appeal

Applicant Name: Matthew Christopher Shafer Phone: 304-989-0494  
Address (city, state, zip): 3004 3rd Avenue, Huntington, WV 25702  
Email: Shafer48@octhook.com  
Property Owner: Matthew Christopher Shafer Phone: 304-989-0494

I/We, the undersigned, hereby request the Board of Zoning Appeals review the following order, requirement, decision, or determination made by Breanna Shell (Planning staff) or the Planning Commission under the provisions of Article 9 of Chapter Eight A of the Code of West Virginia, effective date June 13, 2004 and under the provision of Article 1361 of the City of Huntington Zoning Ordinance, adopted December 14, 1998, as amended.

Decision made by official or Board:  
Denied business application

Give description of property including District, Tax Map, Parcel, lot number (if applicable), street address and/ or other description.  
Map 12 Parcel 0038 L58 Emmers Ct 3004 3rd Avenue

This appeal is requested for the following reasons (state any reason which the Board of Zoning Appeals should be aware of in forming its decision):  
The decision made to deny my application inaccurately classified my business activities. I believe the ordinance passed in 2015 to restrict firearms sales in neighborhood districts doesn't accurately represent my situation to have a home-based FFL business that sells exclusively on websites and at gun shows.  
(Attach extra pages, if needed, for any additional information)

### This Application Must Be Accompanied By:

- Site Plan of Real Estate involved (if applicable): **Drawn to Scale** with scale shown, with the direction of North clearly indicated on the drawing, showing all boundary lines and placement of existing and/ or proposed structures, and with all dimensions shown (setbacks, buildings, etc).
- Any and all documentation and evidence to support the request.
- Treasurers receipt for One Hundred Sixty Dollars (\$160.00) non-refundable filing fee.

I/We, the undersigned, am/are aware that a Public Hearing by the Board of Zoning Appeals will be held on the third **Tuesday** of the month, June unless otherwise noted. It is my responsibility to attend (or send a representative) to the above meeting to City Hall Council Chambers. The filing deadline for this petition is 05/20/2022.

Matthew Shafer  
Signature of Applicant

05/19/2022  
Date

*\*All applications to be submitted must be typed or legibly written in blue or black ink.*

For office use only	
Received:	Project Name:
5/19/22	BZA 22-A-23



# PLANNING & ZONING

City of Huntington  
**Planning & Zoning**  
P.O. Box 1659 | Huntington, WV 25717  
(304) 696-5540, option 3  
planningdept@huntingtonwv.gov

## Home Occupation Application

**Business Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Address (city, state, zip):** \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Property Owner:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

Describe in detail the daily operations of the proposed business (production of products and/or services), list the equipment used, where the equipment is stored, and the room or accessory building where the business is to take place:

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Describe the traffic that is to be expected for the proposed business (deliveries, pick-ups, customers/ clients, employees, etc.):

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Describe any on-site advertising or other marketing strategies:

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Describe any alterations to the property needed for the operation of the proposed business:

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What is the anticipated number of employees working for the proposed business that will live outside of the residence? \_\_\_\_\_

If there is more than one employee who does not live at the residence, please elaborate on the anticipated work schedule and any overlap for those employees:

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**Home Occupation Agreement**

*Please read and initial each line.*

- \_\_\_\_\_ I certify the lot shall include sufficient parking for the maximum number of vehicles on-site at one time, plus parking for the dwelling unit.
- \_\_\_\_\_ I certify that the home occupation will not cause an increase of pedestrian or vehicular traffic.
- \_\_\_\_\_ I certify that the residential character of the lot and dwelling will be maintained.
- \_\_\_\_\_ I certify the home occupation will not produce external noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property.
- \_\_\_\_\_ I certify the home occupation will not conduct operations in a way that is perceptible from beyond the lot line between the hours of 9:00 p.m. and 7:00 a.m.
- \_\_\_\_\_ I certify the home occupation will not involve the storage or use of hazardous, flammable, or explosive substances, other than the types and amounts commonly found in the dwelling.
- \_\_\_\_\_ I certify the address of the home occupations will not be advertised in such a way that would encourage customers or salespersons to come to the property without an appointment.

I, the undersigned, acknowledge that I have read and understand the requirements for having a home occupation. I also understand that if my home occupation violates any of the above requirements, the Home Occupation Permit may be revoked without notice.

<b>FOR OFFICE USE</b>
Received: _____
Staff Initials: _____
Permit Number: _____

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

***\*All applications to be submitted must be typed or legibly written in blue or black ink.***

**FOR OFFICE USE ONLY**

***Planning***

- \_\_\_\_\_ **Approved**
- \_\_\_\_\_ **Denied**

*Conditions:* \_\_\_\_\_  
\_\_\_\_\_

Reviewed by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**TO:** City of Huntington Officials

**FROM:** High Castle Armament LLC: [highcastlearmament@gmail.com](mailto:highcastlearmament@gmail.com)

**CC:** [BosticS@Huntingtonwv.gov](mailto:BosticS@Huntingtonwv.gov), [BartlettB@huntingtonwv.gov](mailto:BartlettB@huntingtonwv.gov)

**BCC:** N/A

**DATE:** May 18<sup>th</sup>, 2022

**SUBJECT:** Legal Description of Business Activities

The purpose of this memorandum is to accurately describe and clarify the activities my business (High Castle Armament LLC) will be involved in. This information is intended to compliment the description listed in the Home Occupation Packet submittal. I will attempt to describe the business activities as specifically as possible, however, should additional information be needed I will provide it at your request.

1. Sale of Firearms: In accordance with the Huntington, WV city ordinance "545.07- Display or Sale of Deadly Weapons", no public signage will display the sale or rent of firearms to pedestrians or passersby on any street. My company EXCLUSIVELY sells firearms via website, telecommunications, and gun shows. Public foot traffic in and out of my home is not an option, my home is simply a safe place to store my business's inventory and conduct administrative activities such as receiving correspondence from the ATF and FBI as I am not permitted to list a P.O. Box as a registered correspondence address. To reiterate simply, I WILL NOT be selling firearms directly out of my home, nor will any customer visit my home with the intention of directly purchasing a firearm as if it were a dedicated gun store. All activities listed above, including administrative activities, strictly follow the guidelines outlined by the ATF for the proper compliance of firearm sales regarding a type-01 Federal Firearms License.
2. Storage of Firearms and Firearms Inventory: The safe storage of firearms in my home abides by the ATF and FBI requirements for the safe storage of firearms by Federal Firearms Licensees. This includes, AT A MINIMUM, video surveillance equipment (security cameras), home security systems (ADT Alarm Systems), dedicated room for storage (home office), and lockable racks, cages, safes, or cabinets to properly secure all firearms (Safes and Lockable Cabinets).

**INVENTORY:** At no time shall my business be in possession of more than 15-20 weapons for business activities. In my professional opinion, this number is far less than the inventory of other home-based FFL businesses and even individual ownership. An article from the Pew Research Center reports that 29% of American gun owners own more than 5 firearms (Parker et. al., 2017)<sup>1</sup>. In my professional opinion, the responsible gun owners considered in that 29% statistic

probably own more than 15 or 20 firearms per person. The reason for this statistic is to demonstrate to you (The City of Huntington) that my inventory is considered low, even compared to roughly 1/3<sup>rd</sup> of non-FFL gun owners in the United States. This is my justification for not considering myself a wholesaler, because I do not possess a surplus number of firearms capable of high-volume commercial sales. Therefore, I feel that the label of “wholesaler”, when used to describe the zoning classification, does not apply to my business.

3. Firearms Safety Courses: To encourage firearms safety and provide the opportunity for citizens to obtain their concealed carry permit for a handgun, my business will offer firearms safety classes. The instructional classes will take place at an appropriate facility capable of seating a 20-person class size. These include but are not limited to community centers, churches, National Guard Armories, and other places where the class is permitted. Practical range instruction will take place at a public gun range (Cabell County gun range as an example). Neither the instructional classes nor the practical range instruction will happen at my home. My home will simply act as an office to register and complete administrative duties related to this business activity. These activities include scheduling, receiving mail correspondence, safe storage of firearms, certificate printing, and telecommunications. All activities follow the guidelines outlined by the ATF and FBI.
4. Delivery/Shipping of Firearms: The delivery and shipping of firearms follows the strict compliance requirements per the ATF. Any incoming shipments will arrive by standard mail in a box usually no larger than 36-inches long, by 10-inches in width, and 4-inches in depth. Additionally, in the 5 years I have been in operation, never have I received more than ONE firearm in the mail at one time. The delivery will either be shipped to a Post Office (FedEx or UPS) receiving office where it will be available for pick-up or will be delivered directly to my home and require my signature before being delivered. I will not have a freightliner parked on 3<sup>rd</sup> avenue delivering weapons in commercial quantities.
5. Local Law Enforcement Cooperation: As a law-abiding citizen, legitimate business, veteran, and previous law enforcement officer, I strictly comply with all law enforcement requirements needed to conduct my business. Per the ATF, I am required to inform the Chief Law Enforcement Officer of all operations, thefts, sale refusals, and any suspicious activity I encounter while performing my business as a registered firearms dealer. I take this responsibility seriously and fully intend to cooperate with any special requirements Police Chief Karl Colder feels is necessary for me to operate my business within the City of Huntington. Should my application be accepted, I will send a separate memorandum outlining this information, as well as specific information regarding the type of firearms in my possession to the CLEO (Chief Karl Colder).

As a West Virginia native and Huntington resident I can not express the love and concern I have for this city. I live here, I work here, I went to college here, and I plan to continue building my life here. I want nothing more than to see this city, and its residents, prosper. Therefore, I would like to move my business here from Kanawha County, where it is currently in operation. High Castle Armament LLC is a legitimate, veteran owned and operated business. Should I be denied the opportunity to establish it here I would have to forfeit my license and consequently my business.

I have no regrets about my military career, and I know that my sacrifices are negligible as compared to the hero's that gave their lives in defense our nation and our rights. I have lost friends, opportunities, physical health, and years of my life in service to the community I live in. I sacrificed what I have voluntary and without the desire or expectation of reward. I ask only that the City of Huntington respect this opportunity for the continuation of the business I have worked so hard to build.

References:

<sup>1</sup>Parker et. al. (2017). *America's Complex Relationship With Guns, The demographics of gun ownership*. Pew Research Center. Electronically Published on June 22, 2017. Retrieved from [Pewresearch.org](http://Pewresearch.org).

Respectfully,

Matthew Christopher Shafer, PMP

304-989-0494

Owner/Operator

High Castle Armament LLC

FFL #: 4-55-039-01-2H-04335

## City of Huntington Zoning Ordinance Section

### 1341.22 Home Occupation

- A. A home occupation shall be conducted completely indoors, and may be within a principal or accessory building. The total amount of floor area of all buildings used for a home occupation shall not be greater than 25 percent of the total floor area of the principal dwelling unit.
- B. There shall be no outdoor operations or outdoor storage of materials, products or equipment.
- C. Signs and Displays - There shall be no use of show windows, business display or advertising visible from outside the premises, except for one non-illuminated sign with a maximum sign area of two square feet on each of two sides and a maximum height of six feet.
- D. Truck Traffic - The use shall not require the parking of, storage of or regular servicing by a vehicle with an aggregate gross vehicle weight of more than 12,000 pounds, except for one vehicle used by a resident whose primary occupation is as an over-the-road driver of such vehicle. Such vehicle shall be parked off-street beyond the front of the house. While parked on the residential lot, such vehicle shall not generate noise beyond normal neighborhood levels.
- E. Uses permitted as a home occupation include, but are not limited to: art studio, home craft businesses (including home craft brewery production (nanobrewery) in accordance with 1341.50), dressmaking, furniture making, office, custom sewing, clerical work, sales or survey over the telephone, tax preparation, musical instruction, tutoring of students, personal service businesses, trade businesses provided there is no on-site assembling, manufacturing, processing, or retail sales, repair service, day care in accordance with Section 1341.13, or one chair beauty or barber shop with no products sold from the premise.
- F. The following uses shall not be permitted as a home occupation: veterinarian office, stable, kennel, funeral home, industrial uses (other than custom crafts and sewing), wholesale or retail sales on the premises (except as accessory to custom crafts and except for sales over the phone, through the mail, or online), restaurant, repairs of motor vehicles or trucking company terminal, manufacturing, or repair of machinery, automobiles, trucks, and motorcycles.
- G. Nuisances - No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property. Only general types and sizes of machinery that are typically found in dwellings for hobby, domestic or sewing purposes shall be permitted. No use shall generate noise or glare in excess of what is typical in a residential neighborhood.
- H. Parking and Loading - The lot shall include sufficient parking for the maximum number of vehicles on-site at one time, plus parking for the dwelling unit. A defined driveway shall be provided, and shall be shown on the site plan. The applicant shall prove that such driveway provides for safe sight distance.
- I. Building Appearance - The exterior of the residential building and the lot shall not be changed in such a way as to decrease its residential appearance, except for permitted parking spaces and the permitted sign.
- J. Hours - A home occupation shall not be conducted in a way that is perceptible from beyond the lot line between the hours of 9 p.m. and 7 a.m. This time limit shall also apply to any loading or unloading of vehicles on the property or on a street that causes noise to adjoining residents.
- K. Hazardous Substances - The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling.
- L. Advertising - The address of the home occupation shall not be advertised in such a way that would encourage customers or salespersons to come to the property without an appointment.
- M. Number of Employees - No employees who are not permanent residents of the dwelling may work on the premise, except for businesses that involve field or on-site service, including salesmen, plumbers, cleaners, home repair, online services and other similar service activities. Such home occupations may employ up to four persons, provided that the home occupation may have 1 Full Time Equivalent employee work at the home office. For the purposes of the Home Occupation Full-Time Equivalent may include up to four employees provided that no more than one employee works on-site at any given time. A Home Occupation may apply for a Special Permit to have more than one (1) employee at the home office provided it is found that based on physical characteristics of the lot the additional employees would not detract from the residential character.
- N. Instruction - Any instruction or tutoring shall be limited to a maximum of four students on the property at any one time.
- O. A permit from the Planner or designee shall be required for any home occupation.

**Staff Report:** A petition for a variance to continue a non-conforming multi-family use.

**Legal Ad**

**BZA 22-V-24**

*Issue:* A petition for a variance to continue a non-conforming multi-family use in an R-2 Single Family District. The property is located at 2113 Madison Avenue.

*Petitioner/Property Owner:* Recovery Point of Huntington Inc. 1040 Adams Ave., Huntington, WV

**Introduction**

Recovery Point is requesting a variance to the abandonment clause of the nonconforming use ordinance in order to continue the nonconforming multi-family residential use of 2113 Madison Ave., which is located in an R-2 Single Family District.

**Zoning Ordinance**

Per *Section 1355(G)*, in the event that a nonconforming use of any building or premises is discontinued for a period of one (1) year, abandonment will be presumed unless the owner of the property can show that the property has not been abandoned.

**Existing Conditions / Background**

The Huntington Zoning Ordinance dictates that a nonconforming use becomes abandoned and must thereafter conform to the zoning district standards, if the use has been discontinued for one year.

According to the Cabell County Assessor’s Office, these apartments were built in 1975. This structure was built as six, two-story townhouses, with on-site parking.

This property was rented as a multi-family building until March 31, 2021 when the last tenants’ leases ended. Recovery Point acquired the building in September 2021. Per the abandonment clause, the nonconforming use of this building would have expired on March 31, 2022.

**Proposed Conditions**

If this variance is granted, 2113 Madison Ave. can once again operate as a six-unit multi-family building. The petitioner proposes to use this property as transitional living homes for graduates of Recovery Point programs. No more than 5 people would live in each unit.

**Pictures**



2113 Madison Ave.



2113 Madison Ave. from Madison Ave.

### **Staff Comments**

The Future Land Use Map of Plan 2025 designates this area as Traditional Residential, which is primarily single-family, with some sparse commercial uses.

Because the ongoing nature of the multi-family structure at this site and availability of parking, utilities, and space to accommodate six units of housing, staff does not believe that granting this variance will adversely affect the public health, safety or welfare, or rights of adjacent property owners or residents.

### **Summary**

1. Recovery Point Inc. is the petitioner and property owner.
2. The property is zoned R-2 Single Family.
3. The petitioner is requesting a variance to the one year abandonment period in order to continue a non-conforming

multi-family residential use for a six-unit building.

4. Per *Section 1355(G)*, if a nonconforming use of any building or premises is discontinued for one (1) year, abandonment will be presumed unless the owner of the property can show that the property has not been abandoned.
5. The lot is approximately 18,600 sf.
6. Staff does not believe that granting this variance will adversely affect the public health, safety or welfare, or rights of adjacent property owners or residents.

### **Attachments**

- Aerial Map
- Zoning Map
- Future Land Use Map



Location of Nonconforming Multi-Family Use

ALLEY

22ND ST W

21ST ST W

MADISON AVE

ALLEY

90 Feet



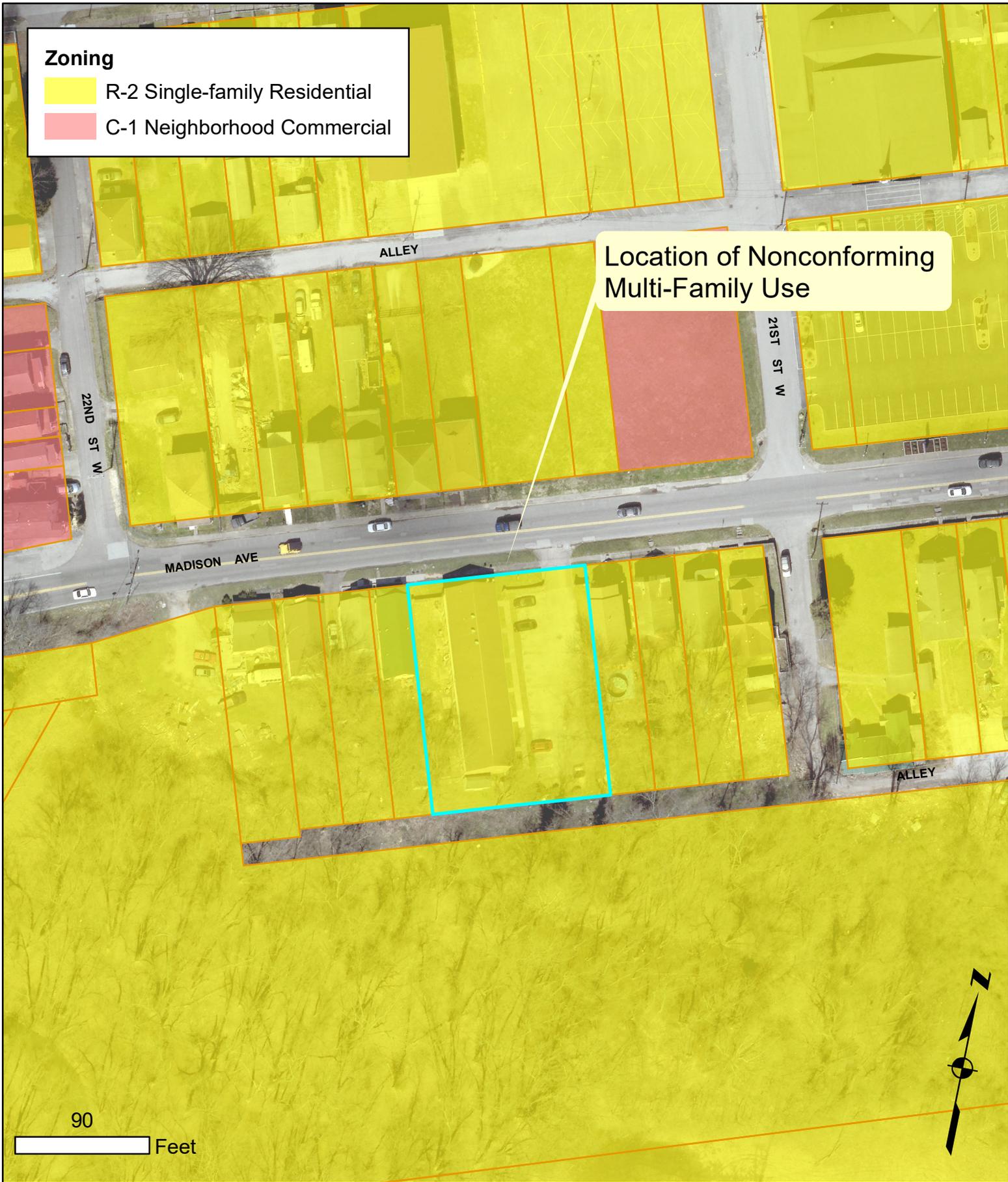
**2113 Madison Ave.  
Variance to Continue a Nonconforming Multi-Family Use  
BZA 22-V-24**



**Zoning**

-  R-2 Single-family Residential
-  C-1 Neighborhood Commercial

Location of Nonconforming Multi-Family Use



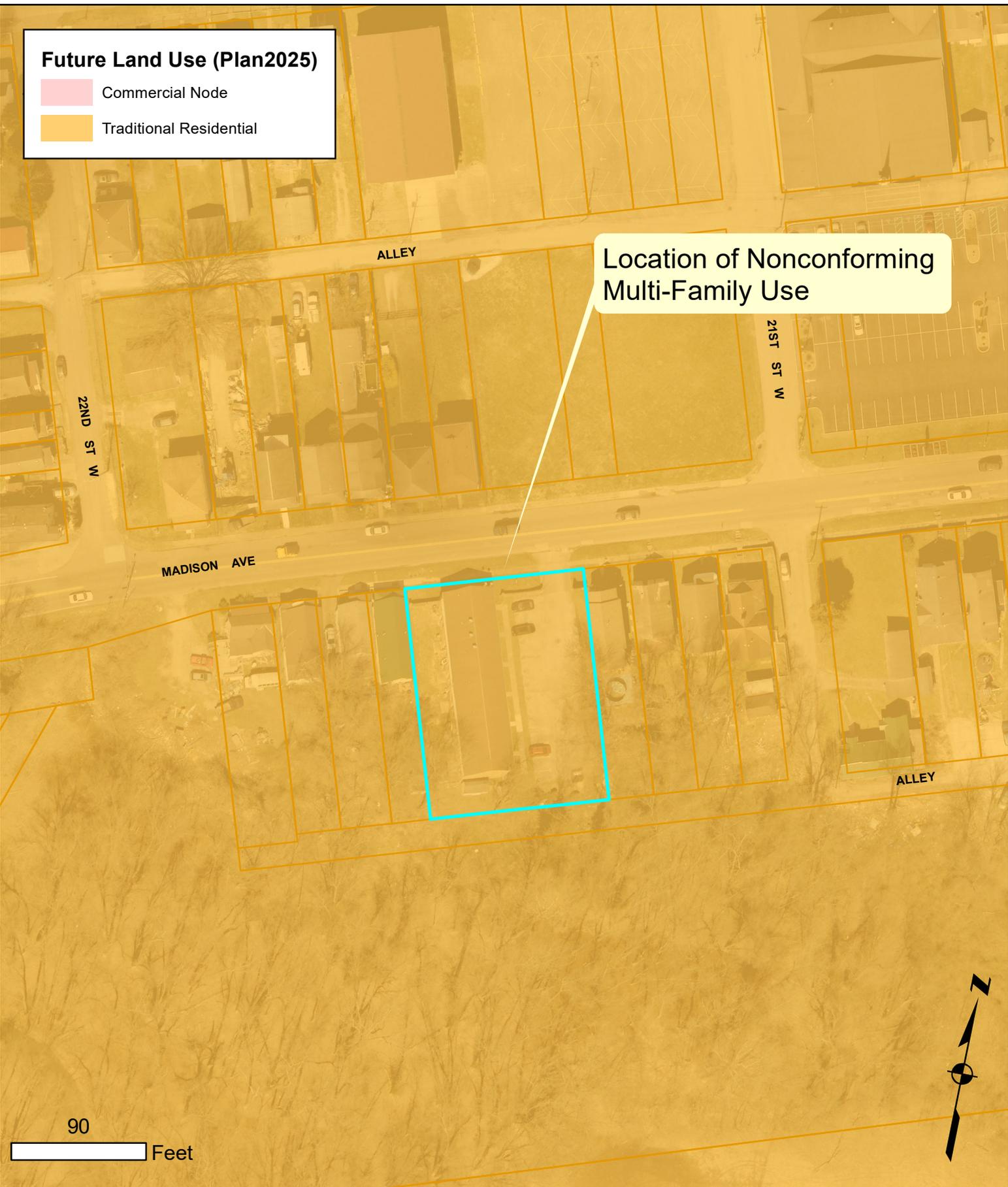
**Zoning - 2113 Madison Ave.  
Variance to Continue a Nonconforming Multi-Family Use  
BZA 22-V-24**



**Future Land Use (Plan2025)**

-  Commercial Node
-  Traditional Residential

Location of Nonconforming Multi-Family Use



**Future Land Use**  
**2113 Madison Ave.**  
**Variance to Continue a Nonconforming Multi-Family Use**  
**BZA 22-V-24**





APPLICATION FOR APPEAL FOR VARIANCE OF ZONING REGULATIONS

Planning and Zoning Huntington City Hall 800 Fifth Avenue P.O. Box 1659 Huntington, WV 25717 (304) 696-5540, opt 3

Applicant Name: Recovery Point of Huntington Inc. Phone: 304-523-4673

Address (city, state, zip): 1040 Adams Ave Huntington, WV 25704

Email: rjones@recoverypointwv.org

Property Owner: Recovery Point Phone: 304-523-4673.

Address (city, state, zip): 1040 Adams Ave Huntington, WV 25704.

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

2113 Madison Ave, Huntington WV 25704 dist. 07, map 55, parcel 163, parid 0755016300000000

Variance requested pursuant to:

Article 1321-R14R-2 and/or Figure of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

We are requesting a variance of the locations current zoning to be utilized as a transitional living homes for graduates of Recovery Point programs.

Description of property including tax map, parcel, lot number (if applicable), street address and/or other description:

parid 0755016300000000, map 55, parcel 163, 2113 Madison Ave Huntington, WV 25704. Zoned as R-2. Property is 6-unit adjoined 2 story townhouses.

Please describe the special conditions or attributes which pertain to the property or hardships for which the variance is sought (state any reason which the Board of Zoning Appeals should be aware of in forming its decision):

This unit was multiple single family dwellings, we purchased units in September 2021. There are 6 units in total. Each unit will only house a total of 5 individuals. No change to existing floorplans were changed after purchasing.

(Attach additional pages if necessary)

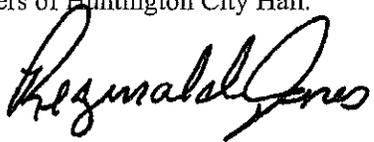
**The following exhibits are to be attached and made part of this application:**

- Site plan of Real Estate involved (if applicable); drawn to scale with scale shown, with direction North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc.).
- Valid State or Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One Hundred Sixty dollars (\$160.00) non-refundable filing fee for each variance sought.

All of the above documentation is to be submitted to the office of Planning and Zoning by: \_\_\_\_\_ in order to be placed on the next Board of Zoning Appeals agenda. Incomplete documentation will delay applicants review by the BZA.

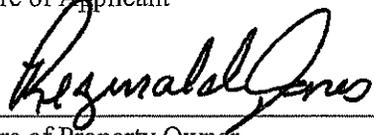
I/We, the undersigned, am/are aware that a Public Hearing by the Board of Zoning Appeals will be held on Tuesday, \_\_\_\_\_. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

<b>FOR OFFICE USE</b> Received: <u>5/20/22</u> Staff Initials: <u>BS</u> Project Number: <u>BZA-22-V-24</u>
--



\_\_\_\_\_  
Signature of Applicant

5/20/22  
Date



\_\_\_\_\_  
Signature of Property Owner

5/20/22  
Date

*\*All applications to be submitted must be typed or legibly written in blue or black ink.*

**FOR OFFICE USE ONLY**

Date of Decision: \_\_\_\_\_

- Approved
- Approved with conditions
- Denied

Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_